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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/848,805	05/19/2004	Jeffrey Allen Clark	1999P7794US02/60,426-646	6238

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SIEMENS CORPORATION
INTELLECTUAL PROPERTY LAW DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN, NJ 08830

EXAMINER

TO, TOAN C

ART UNIT	PAPER NUMBER
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3616

DATE MAILED: 05/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/848,805

Applicant(s)

CLARK ET AL.

Examiner

Toan C To

Art Unit

3616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 May 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 and 13-17 is/are rejected.
- 7) ☒ Claim(s) 12 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>05-19-2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1, 3-6, 8, 10, 14-16 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-6 of U.S. Patent No. 6,752,419. Although the conflicting claims are not identical, they are not patentably distinct from each other because the following reasons:

Claim 1 of U.S. Patent No. 6,752,419 read on every limitation of claims 1, 3-4 of the instant application.

Claim 2 of U.S. Patent No. 6,752,419 read on every limitation of claim 5 of the instant application.

Claim 3 of U.S. Patent No. 6,752,419 read on every limitation of claim 6 of the instant application.

Claims 4 and 6 of U.S. Patent No. 6,752,419 read on every limitation of claims 1 and 8 of the instant application.

Claim 5 of U.S. Patent No. 6,752,419 read on every limitation of claims 10 and 14-15 of the instant application.

Claim 6 of U.S. Patent No. 6,752,419 read on every limitation of claim 10 and 16 of the instant application.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-3, 5, 6-11, 13-14, and 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shigeoka et al (U.S. 5,311,963) in view of Dobrosielski (U.S. 3,018,127).

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Shigeoka et al discloses an air bag sensor module for vehicle comprising: a sensor (4, 6, 8) secured to a vehicle structures base for sensing vibrations caused by a crash of the vehicle.

Shigeoka et al fails to disclose a mounting arrangement for an airbag sensor comprising: a mounting structure having an internally thread member; a base having an aperture extending therethrough and aligned with the internally threaded member, the aperture having a retaining portion a fastener having a shaft with a head and a threaded portion opposite the head with the threaded portion temporarily retained within the retaining portion in a shipping position, the threaded portion having a minor diameter with the shaft portion having a shaft diameter less than the minor diameter; wherein the retaining portion includes a depth and the shaft includes a length greater than the depth; wherein the threaded portion comprises self-tapping threads; wherein the base is molded about the fastener; the threaded portion being disposed outside of the retaining portion in an installed position in which the threaded portion is received in the internally threaded member to secure the base to the mounting structure.

Dobrosielski teaches a mounting assembly for an electronic device comprising: a mounting structure (10) having an internally thread member (23); a base (11) having an aperture (hole) extending therethrough and aligned with the internally threaded member, the aperture having a retaining portion (portion includes the threaded portion 27); a fastener (18) having a shaft with a head (21) and a threaded portion (22) opposite the head with the threaded portion (22) temporarily retained within the retaining portion in a shipping position, the threaded portion (22) having a minor diameter with the shaft

portion having a shaft diameter less than the minor diameter (figures 2 and 3 shows the threaded portion 22 having diameter greater than the diameter of the shaft); wherein the retaining portion includes a depth and the shaft includes a length greater than the depth; wherein the threaded portion (22) comprises self-tapping threads; wherein the base is molded about the fastener (18); the threaded portion (22) being disposed outside of the retaining portion in an installed position in which the threaded portion (22) is received in the internally threaded member (23) to secure the base (11) to the mounting structure (10); wherein the aperture includes a pocket (29) adjacent to the retaining portion opposite the head (21), the threaded portion being disposed within the pocket (29) in a transient position; wherein a diameter of the retaining portion is greater than a diameter of the shaft (see figure 3).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the airbag sensor module of Shigeoka et al by replacing his vehicle structure and the sensor mounting structures by the teaching as taught by Dobrosielski in order to protect the airbag sensor from damaging by the collision such that to ensure detection of impact.

With respect to claims 6-7, Dobrosielski does not directly disclose the material for the base. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the base as disclosed by Dobrosielski made from either plastic or metal. Since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin* 125 USPQ 416.

Allowable Subject Matter

5. Claims 4, 12 and 15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Toan C To whose telephone number is (571) 272-6677. The examiner can normally be reached on Mon-Fri (8:00-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on (571) 272-6669. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TTTo
April 28, 2005

 5/2/05
PAUL N. DICKSON
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600